

**BENJAMIN ROSENTHAL, OSB NO. 830828**

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Attorney for Plaintiff

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

DANIEL ORME,	)	
	)	CASE NO. CV 07-859-MO
Plaintiff,	)	
	)	
vs.	)	
	)	PLAINTIFF'S SUPPLEMENTAL
	)	PETITION FOR ATTORNEY'S FEES
	)	AND COSTS
	)	
BURLINGTON COAT FACTORY	)	
OF OREGON, LLC et al.,	)	
	)	
	)	
Defendant.	)	
_____	)	

Plaintiff Daniel Orme (hereinafter "Plaintiff") hereby petitions the Court for an award of supplemental attorneys' fees and costs to capture additional time and costs expended post trial since the filing of Plaintiff's original petition filed on October 13, 2009. The petition is supported by the attached declarations of Benjamin Rosenthal and Meagan A. Flynn.

On January 5, 2010, Judge Mosman heard Defendant and Plaintiff's Post trial Motions denying Plaintiff's Motion and Defendant's Motions in part and granting in part, Defendant's Motion for Judgment As a Matter of Law on Punitive Damages. The effect of the Court's ruling reduced Plaintiff's award of Punitive damages from \$375,000 to \$167,500, thereby awarding Plaintiff \$200,000 in non-economic and exemplary damages .

In determining an appropriate fee and cost award, Plaintiff respectfully requests that the Court consider the time expended, the delay in any payment, that this case necessarily was contingent and prevented Counsel from accepting other cases. Moreover, Plaintiff requests that the Court recognize that as an employment civil rights case, this case requires a complex understanding of the applicable laws.

Although the result achieved is not a limiting factor, Plaintiff achieved a favorable result which may not have been initially brought unless plaintiff is awarded the full amount of time his attorney expended on this case. Although Defendant most undoubtedly wishes to dwell on the factor that the case involved one statement uttered by one of its middle managers, it is the whole Company's response to Plaintiff's complaint and its continued persistence that Plaintiff was not even engaged in a protected activity - ie, that he had no right to complain - which is at issue. Plaintiff had a right to complain without the retaliatory result of losing his job. Plaintiff proved that he was fired for so complaining. This result was favorable. Until post trial, Defendant in this case made no offer.

Based on the forgoing and for the reasons stated in Plaintiff's original Petition, Courts have awarded a multiplier to Benjamin Rosenthal. Plaintiff is not requesting the award of a multiplier in this case. Plaintiff herein seeks recovery of his lodestar number in the amount of

\$160,797.75 in fees and \$7,941.03 in costs.

At hearing should an expert testify on behalf of Plaintiff's counsel, Plaintiff will be submitting an additional amount for expert witness fees.

DATED: January 6, 2010

Respectfully Submitted,

/s/ Benjamin Rosenthal  
Benjamin Rosenthal, OSB 83082  
Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that on January 6, 2010 I, Brooke Zimet, electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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/s/ Brooke Zimet  
Paralegal to Benjamin Rosenthal, OSB 830828